

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	
and)	
)	
AHMET DEMERELLI)	
)	
Plaintiff-Intervener,)	
)	
vs.)	Case No. 4:04CV00846 CAS
)	
CONVERGYS CUSTOMER MANAGEMENT)	
GROUP, INC.,)	
)	
Defendant.)	

PLAINTIFF EEOC'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff Equal Employment Opportunity Commission respectfully requests that this Court grant partial summary judgment to Plaintiffs for reasons that follow:

1. Defendant filed a Motion for Leave to File Amended Answer on September 6, 2005, seeking to add the affirmative defense of after-acquired evidence. With its motion, Defendant filed a First Amended Answer and Affirmative Defenses to Plaintiff EEOC's Complaint. In its amended Answer, Defendant labeled the after-acquired evidence affirmative defense as "Affirmative Defense J". Defendant's Motion is still pending before the Court.

2. If this Court grants Defendant's Motion for Leave to File Amended Answer and Affirmative Defenses to Plaintiff EEOC's Complaint, Plaintiff is entitled to summary judgment with respect to Defendant's Affirmative Defense J inasmuch as the undisputed facts, viewed in

the light most favorable to Defendant, establish that Defendant's after-acquired evidence affirmative defense fails as a matter of law. In particular,

A. Defendant cannot establish that the evidence it contends was after-acquired was first known to it only after it terminated Yigit Demirelli;

B. Defendant cannot prove with any admissible evidence that Demirelli committed the attendance infractions that Defendant claims as after-acquired evidence;

C. Defendant has unclean hands and should be barred from asserting that Demirelli's remedy should be limited because he did not have authorization to work for eight months during his employment; and

D. Defendant cannot establish that it would have terminated Demirelli for the offenses it claims as after-acquired evidence.

WHEREFORE, for the above reasons, the reasons set forth in Plaintiff EEOC's Memorandum in Support of Motion for Partial Summary Judgment, and Plaintiff EEOC's Statement of Undisputed Facts, attached hereto and incorporated by reference, Plaintiff respectfully requests this Honorable Court grant its Motion for Partial Summary Judgment in its entirety.

Respectfully submitted,

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